



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 11, 2012

Mr. Gerard A. Calderon
Assistant Criminal District Attorney
Bexar County
Criminal District Attorneys Office
300 Dolorosa, Fifth Floor
San Antonio, Texas 78205-3030

OR2012-16299

Dear Mr. Calderon:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 469815.

The Bexar County District Attorney's Office (the "district attorney's office") received a request for the case files pertaining to three named individuals. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹Although you also raise section 552.111 of the Government Code and rule 503 of the Texas Rules of Evidence, you have submitted no arguments in support of these claims. Therefore, this decision does not address section 552.111 or rule 503. See Gov't Code § 552.301(e)(1)(A) (governmental body must provide written comments in support of applicability of each exception it claims).

²We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). We note the information at issue was used or developed in investigations of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Upon review, we find this information falls within the scope of section 261.201(a). You have not indicated that the district attorney’s office has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, we conclude the information at issue is confidential under section 261.201(a) of the Family Code, and the district attorney’s office must withhold it in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).³

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php.

³As our ruling is dispositive, we need not address your arguments against disclosure of this information.

or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sean Nottingham". The signature is fluid and cursive, with the first name "Sean" being more prominent than the last name "Nottingham".

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bhf

Ref: ID# 469815

Enc. Submitted documents

c: Requestor
(w/o enclosures)